1-1-1972

Human Rights in the Territories Occupied by Israel

Morris Greenspan

Follow this and additional works at: http://digitalcommons.law.scu.edu/lawreview

Part of the Law Commons

Recommended Citation
Morris Greenspan, Human Rights in the Territories Occupied by Israel, 12 SANTA CLARA LAWYER 377 (1972).
Available at: http://digitalcommons.law.scu.edu/lawreview/vol12/iss2/7

This Article is brought to you for free and open access by the Journals at Santa Clara Law Digital Commons. It has been accepted for inclusion in Santa Clara Law Review by an authorized administrator of Santa Clara Law Digital Commons. For more information, please contact sculawlibrarian@gmail.com.
HUMAN RIGHTS IN THE TERRITORIES OCCUPIED BY ISRAEL

Morris Greenspan*

INTRODUCTION

Since the June War of 1967, there has been no lack of attempts by the Arab states and their supporters to impugn Israel's regard for and recognition of human rights in the territories which she occupied during that conflict. This has been particularly the case in the forum of the United Nations, where the Arab states constitute a formidable bloc of nearly a score of states. Together with the states linked to them by religion, interest, and policy, the Arab states are well able to conduct a running campaign of political warfare in the form of resolutions condemnatory of Israel's administration of the occupied territories. Almost invariably such resolutions are passed—even though a majority of member states habitually take no part in the condemnation, a few oppose it, and the rest abstain or absent themselves. Such is the power of bloc politics in the United Nations.

The influence of the Arab states and their supporters in the United Nations has resulted in the creation of two United Nations bodies to investigate complaints of infringement of human rights by the Israel government in the occupied territories. Both of these bodies have issued reports critical of Israel,¹ and it is mainly on the basis of these reports that the author proposes to examine the real status of human rights in these occupied territories. While this may seem to be a rather negative approach to the question, it has this advantage: since these reports embody every accusation that the Arabs believed they could bring against Israel for infringement of human rights, the areas of controversy are defined; and it can be fairly assumed that, in matters in which no charges have been made, Israel's conduct of the occupation is not open to serious criticism.

This paper will consider, first, what validity, if any, should be attached to the criticisms in the reports by the United Nations investigatory bodies; secondly, the occupation itself will be viewed more positively, from a first-hand account, to provide a more balanced assessment of the actual situation.


¹ See notes 20-22 and accompanying text, infra.
The First Investigatory Body

Authority to establish the first U.N. investigatory body was contained in United Nations General Assembly Resolution 2443 (XXIII) of December 19, 1968. However, this body, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, was actually constituted under dubious legal circumstances. The resolution authorized the President of the Twenty-Third Session of the General Assembly to appoint the members of the committee. The President died without being able to induce uncommitted states to serve. Finally, at the instance of U Thant, the United Nations Secretary-General, the appointments were made by one of the vice presidents of the twenty-third session, although the vice president no longer held office after the expiration of the session.

The representative of Israel protested the lack of legal authority for such a proceeding, but to no avail. Rather incredibly, the following three states were constituted as the committee: Ceylon, Somalia, and Yugoslavia. All three states are rabidly pro-Arab; none has diplomatic relations with Israel; and, Somalia actually considers itself in a state of war with Israel. Israel's justified lack of confidence in the impartiality of the committee was further exacerbated by the terms of the General Assembly resolution under which the committee was "appointed." The wording of the resolution had the clear effect of prejudging adversely against Israel the very matters the committee was set up to investigate.

This unfortunate situation was compounded in a subsequent General Assembly resolution passed shortly after the committee was constituted. This resolution not only "condemned" various "policies

---


7 See note verbale, 6 January 1970, from the Permanent Representative of Israel at U.N., Report of Special Committee, supra note 2, at 5.

and practices" attributed to Israel in the occupied territories, but also told the committee "to take cognizance of the provisions" of the resolution. This could only mean that the General Assembly itself foreclosed an impartial investigation by the committee.

It is noteworthy that about a year after the committee came into being, the Secretary-General of the United Nations issued a report, Respect for Human Rights in Armed Conflict,\(^9\) in which he suggests that the General Assembly and Human Rights Commission cease creating ad hoc bodies, such as the committee under discussion and the subsequently formed second investigatory body. The Secretary-General cautioned that such bodies "might be viewed as somewhat precarious and liable to inspire a lesser degree of confidence" and suggested instead the creation of a standing "agency of implementation" under United Nations aegis. He went on to use words peculiarly applicable to the present situation, namely: "An absolute prerequisite for the establishment and success of such an agency would be that its character would be exclusively and strictly humanitarian; it would have to be scrupulously non-political and it should strive to offer all guarantees of impartiality, efficiency and rectitude.\(^10\)

In a similar vein are the following words of the U.N. Economic and Social Council, the parent body of the U.N. Commission on Human Rights which created the second investigatory body, the Special Working Group of Experts. The Council stated: "the composition of any body responsible for making such inquiries [into violations of human rights and fundamental freedoms] and its procedures must be such as to provide a reliable guarantee of its competence and impartiality.\(^11\)

Under these circumstances, it was quite understandable that Israel would protest the appointment of a committee "whose composition automatically guaranteed its anti-Israel bias,"\(^12\) and the manner in which it had been constituted, would denounce it as "a worthless exercise . . . a vehicle for propaganda and political warfare,"\(^13\) and would refuse cooperation with the committee.

---


\(^10\) Id. at 77.


\(^13\) Id.
The Second Investigatory Body

The second investigatory body was set up by the United Nations Commission on Human Rights in its resolution 6 (XXV) of March 4, 1969.14 The mandate of the Special Working Group of Experts was “to investigate allegations concerning Israel’s violations of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, in the territories occupied by Israel as a result of hostilities in the Middle East.”15

Once again, it was a resolution adopted by a minority of states, consisting of Arab states and their supporters.16 Even more significantly, the resolution, while referring to “allegations” against Israel in its mandate, in fact foreclosed impartial investigation by finding Israel guilty, in the operative part of the resolution, of the very allegations the group was asked to investigate. Thus, as in the case of the Special Committee, the resolution prejudged the issues. Furthermore, the composition of the group could hardly be termed neutral. Of the six individuals appointed, one (from Peru) took no part in the hearings. A Yugoslavian was vice chairman, and the most active member was from India.17 Of the rest, the chairman was from Senegal, the others from Tanzania and Austria.

Israel protested the establishment of the group, indicating it would be better advised to have “regard for the vicious trampling on the human rights of the Jewish Communities in certain Arab countries in the Middle East Region,”18 and refused cooperation for what it later described, in regard to both investigatory bodies, as their “illegal constitution, biased terms of reference, and incompetence.”19

The “Evidence” Presented Against Israel

Both investigatory bodies held meetings in the Arab countries bordering on Israel and in Geneva and New York, but not in Israel

---

15 Id.
16 Id. at 6. (13 for, 1 against, 16 abstaining, 2 absent.)
or the occupied territories. The bodies received both oral and documentary evidence. Although the mandate of the Special Committee was wider than that of the Special Working Group, the former heard much the same evidence and covered the same ground as the latter. It was, therefore, essentially a duplication of effort. The Special Working Group issued its report first, on February 11, 1970;20 the Special Committee followed with a report on October 5, 1970,21 and, after further hearings, with a supplementary report on September 17, 1971.22

The report—at any rate, its conclusions and recommendations—of the Special Working Group is rather more restrained and objective than are the reports of the Special Committee, but only comparatively so. It admits that “The evidence received by the Group was one-sided.”23 And while stating the opinion that “there are violations of the Fourth Geneva Convention,” the report concedes that the group “was not in a position to verify these allegations juridically.”24 Even so, the body of the report contains a mass of lurid detail regarding purported violations that can only be characterized as raw, unevaluated material from extremely partisan sources.25 It was on this “evidence” that the Group arrived at its conclusions.

An example of the quality and worth of the evidence offered is found in the first case cited under the heading, “Torture and ill-treatment of individuals, other than detainees.”26 The case relates to one Mohammed Kader Derbas, who “testified that he had been castrated in Gaza . . . . The witness also stated that several other men had been castrated who were unwilling to testify before the Working Group.”27

The Special Committee also thought the case of Derbas worthy of presentation in its report under Chapter III, “Analysis of Evidence.” Dealing with “Ill-treatment of prisoners and detainees,” the “analysis” goes into further detail in this case.28 Here it is stated that Derbas was arrested in Gaza by the Israelis during the June

---

21 Report of the Special Committee I.
22 Report of the Special Committee II. The Special Committee has also issued a further supplementary report, A/8389/Add. 1 and Corr. 1 and 2 (1971), in which (at p. 18) suggests disbandment of the Special Committee.
24 Id. at 2-3.
25 Id. at 2-3.
27 Id. at 20.
28 Id.
war, but was castrated in Atlit Prison, which is in Israel. To add emphasis to this testimony, the report continues: "When he recovered from the effects of the anaesthetic, his attention was drawn to the organs that had been removed from him in the course of the operation and which were displayed in front of his bed." To further authenticate the account, the report states: "This case is mentioned because witness Derbas was examined at the instance of the Special Working Group of Experts when they visited Cairo."

The fact is that the archives of the Gaza Health Department contain two documents, one of which, dated June 14, 1966 (a year before the June war of 1967), gives testimony that Derbas' testicles were removed at the "Nasser Hospital," Khan Yunis (Gaza Strip), because of tubercular infection. The other, dated July 28, 1966, is from the files of the Medical Faculty of Cairo University, where Derbas came in the vain hope of "an implantation of testicles."

The tendentious nature of the reports of the Special Committee is further illustrated by the treatment of the Derbas case in the second report (A/8389), which the Special Committee issued in September, 1971. Obviously embarrassed by the revelations of the Israeli government before the Third Committee and the Special Political Committee of the United Nations regarding this case, the Special Committee attempted to cover its confusion by addressing a letter to Israel requesting the evidence in its possession, well knowing the Israeli policy of non-cooperation with the committee. The committee also addressed a letter to the United Arab Republic requesting the medical reports in its possession and also the whereabouts of Professor Mohammed Sa Fawat, who signed the medical report of July 28, 1966, in Cairo.

Note the committee's manner of disposing of the Derbas case in its "Analysis of Evidence" in the second report: "The Government of Israel has not so far furnished to the Special Committee the information in rebuttal it claimed to possess, nor has the Special Committee been able to trace the whereabouts of Professor Mohammed Sa Fawat." A question which deserves answer is why the committee fails to publish the reply of the Egyptian government, as

---

29 Photocopies of the two documents are contained in G. Weigert, Human Rights in the Israeli Administered Territories 12-13 (n.d.) [hereinafter cited as G. Weigert]. Weigert, an Israeli journalist who specializes in Arab affairs, appeared before the Special Committee to testify to improved conditions in the occupied territories as a result of the occupation. See, Report of the Special Committee I, at 52.

30 Report of the Special Committee II, at 10. See also at 49.

31 Gideon Weigert gives the name as "Sawfat." See note 29, supra.

32 Report of the Special Committee II, at 12.

33 Id. at 24.
it published the replies of all other governments to which it addressed letters. Is the committee covering for the Egyptian government, which, it is claimed, cannot trace the whereabouts of a presumably well-known Egyptian medical specialist and for its failure to produce documents from its medical archives?

It certainly cannot be said that either of the Special Committee's reports are honestly compiled, accurate documents, although the committee is more cautious in its second report in charging ill-treatment of persons under detention by Israel. While the first report called on Israel "To cease immediately, and to prevent," such practices,\(^{34}\) the second report, while still publicizing unproven allegations in its "Findings," was sufficiently deterred by the revelations in the Derbas case and others to state: "Numerous allegations of ill-treatment while under detention have been made before the Special Committee. In the absence of sufficient corroborative evidence, the Special Committee is unable to reach a conclusive finding in regard to these cases."\(^{385}\)

Another example of the committee's lack of candor and of its bias and tendentiousness against Israel in regard to allegations of ill-treatment is its commendation of the evidence of one Nadim Zerou, a former mayor of Ramallah in the West Bank. The committee stated that Zerou's evidence "deserves special attention . . . [it] satisfies these tests [norms of credibility] and deserves credence,"\(^{38}\) although the "evidence" was untrue in a material particular which the committee somehow managed to omit from the report.\(^{37}\)

Concerning the testimony of another witness, Ahmed Khalifa, the committee said that the evidence "was particularly impressive, because . . . he did not give the impression that he was moved by rancor towards his former captors. Despite his experiences, he seemed to have retained his objectivity and sense of proportion."\(^{388}\) Assessment of the witness' objectivity would have been enhanced by mention of the fact that this witness "long before his detention, was, by his own admission, a political officer in George Habash's Libera-

\(^{34}\) Report of the Special Committee I, at 56.
\(^{35}\) Report of the Special Committee II, at 55. In the further supplementary report, A/8389/Add. 1 and Corr. 1 and 2 (1971), the Special Committee admits that another allegation of torture injury was in fact "hysterical or feigned paralysis" (at pp. 12-13).
\(^{36}\) Report of the Special Committee I, at 33-34.
\(^{37}\) He stated that two Israeli soldiers who had wrongfully shot dead two Arabs had not been punished, when in fact the District Court of Jerusalem had sentenced both of them to life imprisonment. ISRAEL MINISTRY FOR FOREIGN AFFAIRS, ISRAEL IN THE ADMINISTERED AREAS 14-15 (n.d.) [hereinafter cited as Israel Policy Statements]. See also G. WEIGERT, supra note 29, at 38-39.
\(^{38}\) Report of the Special Committee I, at 33.
tion Front, one of the most extreme terrorist organizations." This, too, the committee carefully omitted from its report.

On an overall view, it becomes apparent that the allegations of violations of human rights contained in the various reports have the political purpose of influencing world opinion to force evacuation by Israel of the occupied territories, without a peace treaty and other guarantees that Israel would need to ensure its continued existence. This purpose is made explicit in the reports of the Special Committee. In its recommendations in its first report, the Special Committee states:

"In order to spare the civilian population and the prisoners of war in the area of conflict in the Middle East further suffering, the weight of international public opinion should be brought to bear on the Government of Israel to apply forthwith the principles declared in Security Council resolution 242 (1967), and in conformity with that resolution to withdraw Israeli armed forces from the occupied territories and to bring the occupation to an end."

Note carefully that the committee adds the word "the" before "occupied territories" in citing resolution 242, when in fact that word was intentionally omitted from the resolution. The significance of this fact is that the omission indicates that Israel was not required under resolution 242 to withdraw from all the occupied territories, and this interpretation is supported by the second principle of the resolution, which affirms the right of every state in the area to "secure and recognized boundaries," which right Israel certainly did not enjoy in June, 1967. The Arab states and their supporters have always insisted on inserting "the" at this point in citing the resolution, and the Special Committee demonstrates its bias by following their lead.

In its second report, the Special Committee disclaims interference in political matters—as distinct from humanitarian issues—but then in its findings, deals with the very matters that can only be the subject of political settlement. These are resolved in favor of the Arabs.

Thus, it is clear that the "evidence" gathered by the investigatory bodies and the conclusions, findings, and recommendations of these bodies must be treated with considerable reserve, to say the least. Still, since these bodies have made allegations accusing Israel of

---

39 Israel Policy Statements, supra note 37, at 18.
41 Report of the Special Committee I, at 55 (emphasis added).
43 Report of the Special Committee II, at 3, 56, 59.
44 Id. at 57 (para. 83).
violations of human rights in various respects, it is necessary to
consider whether those complaints have any substance.

NATURE OF THE ALLEGATIONS

One of the main accusations against Israel concerns ill-treatment
and torture of prisoners and detainees. Certainly, treatment of this
kind would offend against human rights. But there is no basis in
fact for accusing the Israeli government of a policy of ill-treatment,
and the Special Committee ruled in its second report that such allega-
tions were not proven. The government has severely punished those
of its troops who have been guilty of crimes against the Arab popula-
tion. In general, the various allegations against Israel can be
summed up in the words of the correspondent of a leading English
newspaper:

[V]irtually every Arab one meets alleges that prisoners are tortured in
the interrogation centres. . . . Personally, I came up with no conclusive
evidence. The Arab preference for allegation to evidence does not help
the investigator. When I asked the Mayor of Nablus and his colleagues
to substantiate their charges by taking me to talk to any young Arab
of the town who had been tortured, they reverted to Arabic and then
insisted that it was the occupation, not its manifestations, which was
intolerable. No doubt the Arabs are partly governed by their own
imagination . . . .

It is instructive to note that rather than trust themselves to the
mercies of the Jordanian authorities, who have so vigorously de-
nounced Israeli treatment of Arab prisoners, in July, 1971, about
100 Arab terrorists waded the Jordan River and surrendered them-
selves to the Israelis, who were supposedly their real enemies. The

45 See Universal Declaration of Human Rights, art. 5, 3 U.N. GAOR pt. I at 71,
U.N. Doc. A/810 (1948) adopted and proclaimed by G.A. Res. 217A. See also Inter-
national Covenant on Civil and Political Rights, art. 7, G.A. Res. 2200A, 21 U.N.
to the Protection of Civilian Persons in Time of War), 75 U.N.T.S. No. 973, at 287
(1949) (arts. 27, 31-32).
45a Report of the Special Committee II, at 55.
46 See note 37, supra. See also Statement by Israel Ambassador Mordecai Kidron
on Agenda Item No. 5 of the 27th Sess. of the U.N. Commission on Human Rights,
FOR FOREIGN AFFAIRS, EYE-WITNESS REPORTS ON THE ISRAEL MILITARY ADMINISTRATION
Captured terrorists appear quite willing to talk without coercion: "Captured Ter-
rorists willingly led interrogators to their colleagues. The investigators, who were
amazed how easily prisoners turned in their friends, used to joke that there must be
ways to prevent a prisoner from talking." E. YAARI, STRIKE TERROR: THE STORY OF
FATAH 143 (1970).
author personally saw one of these men on July 25, 1971, in the hospital at Ramleh Prison, where he was being treated for a gunshot wound in a leg inflicted by the Jordanians.\textsuperscript{40}

As for the behavior of Israeli troops in the occupied areas, in spite of various allegations of looting before both investigatory bodies, even the Special Committee was forced to conclude: “The evidence before the Special Committee, however, does not justify the conclusion that it was the practice of the occupying Power to loot and pillage the occupied territories.”\textsuperscript{50} The standard of behavior of Israeli forces in regard to the population can be measured by the criterion that only one woman came forward before either investigating body to claim that she had been raped, and the woman in question told a story that was hardly credible.\textsuperscript{51} The intensive efforts of all those attempting to impugn the Israeli forces, turned up this single allegation, which suggests that the behavior of the Israeli forces is unique in the history of warfare. Troops with a standard of behavior as high as this are not likely to commit atrocities; moreover, discipline of this caliber manifests the policy of the Israel government not to allow atrocities to occur.

Another accusation against Israel, particularly made by the Special Working Group of Experts, relates to administrative detentions of persons in the occupied areas. The Special Working Group alleges in its conclusions that “the vast majority of detainees are held in virtue of administrative orders. It also appears that persons under administrative detention are deprived of any guarantee concerning the length of detention and fair trial.”\textsuperscript{52}

In its recommendations, the group stated: “5. Matters concerning the detention of civilians, in particular administrative detention, require special attention, as well as the extent to which the treatment of such detainees conforms to the provisions of the Convention, in particular section IV of Part III of the Convention.”\textsuperscript{53}

The Special Committee’s own report on this matter contradicts the statements of the Special Working Group. It states: “According to a report appearing in the Jerusalem Post on 15 July 1971, Defense Minister Moshe Dayan informed the Knesset that in May 1970 the number of administrative detainees was 1,131 and that in June 1971 the number had decreased to 560. Of these, 229 came from the West Bank, 303 from the Gaza Strip, 14 from Jerusalem and 14 from

\textsuperscript{40} My visit to the prison is described more fully later.
\textsuperscript{50} Report of the Special Committee I, at 51.
\textsuperscript{52} \textit{Id.}, E/CN.4/1016/Add. 2, at 3 (1970).
\textsuperscript{53} \textit{Id.} at 5.
Israel. In November 1971, the Israeli Police Minister informed the Israeli Parliament (Knesset) that 3,631 terrorists were currently serving terms in prisons under Israeli jurisdiction. It will, therefore, be seen that the majority of those detained for security reasons are not held "in virtue of administrative orders."

As for the conditions under which detainees are held, the delegates of the International Committee of the Red Cross have access to the detainees and are thus able to verify whether their treatment conforms with Section IV of Part III of Geneva Convention IV of 1949. Humane treatment of detainees has been described by independent observers.

Administrative detention of persons in occupied territory is, in fact, authorized by Article 78 of Geneva Convention IV, 1949, which states: "If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment."

The article further provides:

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.

The Israeli military administration in the occupied areas has translated these provisions into practice in Section 67 of the Order Concerning Security Instructions applicable to those areas, as follows: The only purpose of the detention is to prevent sabotage and subversive activities. The detainee is held for a definite period in a place of detention fixed by the Regional Military Commander, as far as possible separate from other types of prisoners. Notice of his rights is posted for his perusal, and these include rights to visits, mail, receipt of parcels, and medical treatment. Issue of a detention

---

54 Report of the Special Committee II, at 51.
56 See Dershowitz, Terrorism & Preventive Detention: The Case of Israel, 50 Commentary No. 6, at 68 (Dec. 1970) [hereinafter cited as Dershowitz].
57 "Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a party to the conflict or Occupying Power of which they are not nationals." Geneva Convention IV (Relative to the Protection of Civilian Persons in Time of War), 75 U.N.T.S. No. 973, at art. 4 (1949).
58 Id. at art. 78.
order must be immediately reported to the Legal Adviser of the subdistrict and the order is delivered to the detainee himself. He is also advised that he may appeal the order to an appeal committee, headed by a judge, which is set up for each region. He is heard in person and may be represented by counsel. The committee, of its own motion, reviews the detention every six months.\textsuperscript{59}

It may be noted that practically every state has recourse to administrative detentions in time of national emergency and war. Recent examples of its use by democratic countries include Canada, in Quebec in 1970, against French-Canadian terrorists and Britain, in Northern Ireland, against Irish dissidents in 1971. In May, 1971, the authorities in Washington, D.C., used a form of administrative arrest to neutralize protests against the war in Vietnam which threatened to tie up the capital.\textsuperscript{60}

In World War II, 109,650 men, women, and children of Japanese descent on the west coast of America were detained in camps;\textsuperscript{61} Britain used administrative detention both at home and abroad in that war and has used it subsequently; France has done the same. The dictatorships, Communist and Fascist, have, of course, used it incessantly, in war and in peace. For the members of the two investigatory bodies to accuse Israel in this connection is merely ridiculous, particularly in view of the conduct of Arab countries such as Egypt, Syria, and Iraq, which swept up Jews into prison at the time of the June war and subsequently, merely for being Jews, detained them for long periods and often horribly maltreated them.\textsuperscript{62}

\textsuperscript{59} Law Faculty of the Hebrew University Institute for Legislative Research and Comparative Law, Law and the Courts in the Israel-Held Areas in Legal Aspects of the Arab-Israel Conflict: Selected Documents, Articles and Other Materials 276-77 (A. Shapira ed. 1971). See also, Hadar, Administrative Detentions Employed by Israel, in 1 Israel Yearbook on Human Rights 287-89 (1971); Shapiro-Libai at id. 427-28 (where the provision is given as Article 87, Security Provisions Order).

\textsuperscript{60} Time, May 17, 1971, at 13-15.

\textsuperscript{61} Dershowitz, at 72.

\textsuperscript{62} For some recent reports of the plight of Jews in these countries, see, The Jerusalem Post, Jan. 4, 1972, at 11 (Weekly Overseas Ed.). See also The Jerusalem Post, Dec. 28, 1971, at 3, cols. 1, 2 (Weekly Overseas Ed.) which states \textit{inter alia}, regarding Syria: "Other eyewitnesses say that 40 Damascus men, women and children were recently interrogated in the Jewish Quarter's military intelligence department. One youth was tortured on the rack: other people have been burned with cigarettes: and a 16-year old girl was raped by a policeman. The act was repeated in front of her father and brother who came to inquire about her." The Jerusalem Post, November 16, 1971, at 4, cols. 1, 2 (Weekly Overseas Ed.) states: "One Jewish girl was brought into a police station where she was raped, and later officers extinguished their cigarettes against her body. 'Afterwards, they hurled her into the street in Damascus' Jews Quarter, so that the Jews there might see . . . ." The paper also describes mis-treatment of Jews arrested in Egypt in 1954 and finally released after the June war, 1967, \textit{id.} at 2. 17 Keesing's Contemporary Archives 23321A-23322 (1969-70), describes hangings and reports torture of Jews in Iraq. See also H. H. Cohn, Discrimi-
The Special Committee in its first report also complained of a policy of "collective and area punishment" in certain of the occupied areas. Certainly collective penalties inflicted on innocent persons for the acts of others are forbidden both by Article 50 of the Hague Regulations, 1907, and Article 33, Geneva Convention IV, 1949. However, a distinction must be made between collective penalties and measures taken to ensure both public security in the occupied territory and the security of the occupying power and its forces. This is laid down in Article 64 of Geneva Convention IV, 1949, which states:

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Measures such as curfews necessitated by the situation are perfectly permissible, even though they affect innocent persons, and are, in fact, a standard measure of control of the population under circumstances of tension and public disorder. In such circumstances, they cannot be regarded as collective penalties. The question of demolition of houses will be discussed shortly, but it can be stated here that the measures taken by the Israeli authorities in the instances cited by the Special Committee appear to be consistent with Article 64.

The matter of demolition of houses that have been used to shelter and aid terrorists has in fact been the subject of a good deal of controversy, and the two investigatory bodies have featured it in their reports. The Special Working Group has denounced such actions as reprisals illegal under Article 33 of Geneva Convention IV, 1949, which states: "Reprisals against protected persons and their property are prohibited." The Special Committee in its second report claims that not only do such actions offend against Article 33, but

---

63 Report of the Special Committee I, at 29.
64 Hague Convention IV, Regulations Respecting the Laws and Customs of War on Land, 36 Stat. 2307, T.S. No. 539 at art. 50 (1907).
66 Id. at art. 64.
also against Article 53 of the same convention, which will be discussed shortly.

Much of the controversy regarding these demolitions has centered on the Defence (Emergency) Regulations 1945, which were enacted by the British Mandatory Government then ruling what was known as Palestine. Both Israel and the portions of Palestine that came under Arab rule after the 1948 partition and war (the West Bank and the Gaza Strip) inherited this law. It is contended by Israel that this law remained in effect in the West Bank and the Gaza Strip at the time of the 1967 war and the Israeli occupation of those areas.\(^{60}\) The Jordanian government, however, has denied that this law was in force in the West Bank at the time of the 1967 occupation.\(^{70}\)

If the contention of Israel is correct, the law would have formed part of the penal law of the occupied territory. An occupant has the general duty of enforcing that law,\(^{71}\) except “in cases where they constitute a threat to its security or an obstacle to the application of the present Convention.”\(^{72}\)

Regulation 119 of the Defence (Emergency) Regulations 1945 provides for “forfeiture and destruction of a building from which shots are fired, or which has been used for a security offence (that is, an offence triable in military courts).”\(^{73}\) The Special Committee, however, contends that the regulations as a whole are invalid as not being in conformity with Geneva Convention IV.\(^{74}\)

In fact, it is not necessary to consider the propriety of the Israeli government actions on the basis of the emergency regulations, if reference is made to the very article cited by the Special Committee, that is, Article 53 of Geneva Convention IV, 1949. It forbids the occupying power to destroy property, real or personal, “except where such destruction is rendered absolutely necessary by military operations.”\(^{75}\)

\(^{60}\) Report of the Special Committee I, at 88. See also J. Stone, No Peace—No War in the Middle East 14 (1969).

\(^{70}\) Report of the Special Committee I, at 88-89. However, Jordan claims to have nullified the law by legislation in May, 1948, when Jordan had no legislative authority over the West Bank. Id. at 88 (paras. 1-2).

\(^{71}\) Hague Convention IV, Regulations Respecting the Laws and Customs of War on Land, 36 Stat. 2306, T.S. No. 539 at art. 43 (1907); Geneva Convention IV, at art. 64.

\(^{72}\) Geneva Convention IV, at art 64; Hague Convention IV, Regulations Respecting the Laws and Customs of War on Land, 36 Stat. 2306, T.S. No. 539 at art. 43 (1907) says “respecting . . . unless absolutely prevented, the laws in force in the country.”

\(^{73}\) J. Stone, No Peace—No War in the Middle East 14 (1969).

\(^{74}\) Report of the Special Committee I, at 23-25.

\(^{75}\) Geneva Convention IV, at art. 53.
Demolitions have been carried out by the Israeli authorities only as necessary to counteract terrorist activity in the occupied areas. It is a tenet of counterguerrilla action that the base from which the guerrilla operates must be destroyed, because only if he has a base can he operate. This precept of military action against guerrillas has been carried out in all places and times, most recently by the British in Malaya and Kenya, the French in Algeria, and the United States in Vietnam. All these countries resettled villagers from guerrilla-infested areas and demolished the villages which gave the guerrillas shelter. Israeli action in this respect has been miniscule compared with other nations; even the Special Committee could recite only 109 houses demolished in the period May, 1970, to April, 1971. All inhabitants are, of course, removed before the houses are destroyed. The Israeli action is, therefore, justifiable under Article 53.

The investigatory bodies also heard allegations of the wrongful destruction of villages. Here, again, it is evident that there is a great deal of exaggeration and that destruction in the course of military operations or necessitated by considerations of military security has been charged as illegal. In fact, the Special Working Group notes: "The largest number of allegations concerning violations of the Geneva Convention relate mostly to the period immediately following the hostilities of June 1967." Regarding these allegations, the group avoided any definite conclusion, stating only: "The Group was not in a position to state whether the destruction of these villages was absolutely justified by military operations, in accordance with article 53 of the Convention." In spite of the fact that the Special Committee was not able to allege much more than 200 houses demolished since November 1, 1969, it claimed that this was part of an Israeli policy to force the Arab inhabitants from their homes, with a view to annexation of the territory. In the same paragraph, the committee indicates that at least some of the householders were relocated in the area, which

76 Report of the Special Committee II, at 44 (para. 54). The figures for this period were taken from Israeli newspapers. Otherwise, the number of houses demolished has often been exaggerated by Arab and other sources; for instance, in October 1969, 18 houses were demolished in Halhul village, near Hebron, but a British journalist reported 85 houses destroyed and Arab newspapers in Amman reported 200. A gang of terrorists operated from the village. See G. Weigert, supra note 29, at 17-18.

77 An Israeli soldier and writer who objected to some demolition during the war, describes how his words were exaggerated and distorted in the foreign press. A. Eckardt & R. Eckardt, Encounter With Israel 195 (1970).


79 Id. at 3.

80 Report of the Special Committee II, at 44-45.

81 Id. at 54 (para. 75).
gives cause to wonder at this claim as well. About a million Arabs live in the occupied areas.\textsuperscript{82}

The same purported Israeli policy is alleged by the committee in the deportation of civilians from the occupied territory.\textsuperscript{83} Here, again, there is exaggeration and distortion of events. The Special Committee stated that it "has no doubt that a large number of persons have been forcibly deported regularly from the occupied territories by the Israeli authorities . . . this is part of the Government of Israel's policy."\textsuperscript{84}

Ironically, two items in the committee's own reports belie this statement. First, the procedure laid down for deportation, as stated in the report,\textsuperscript{85} is not designed for indiscriminate deportation; second, a source most unsympathetic to the government of Israel, which is cited in an annex to the first report, can list in the period September 6, 1968 to March 19, 1970, a total of only 86 persons, a "family," and a "whole Bedouin tribe" deported to Jordan and six persons deported to Sinai.\textsuperscript{86}

The expulsion of the "whole Bedouin tribe" is listed under the date of May 21, 1969, but the Special Working Group seems to have missed this item in its own report, although it would seem improbable that the group would overlook the deportation of a "whole tribe." Another source lists only twenty-three deportations from "the beginning of the occupation to December 1968," of which one was readmitted.\textsuperscript{87} Such numbers hardly amount to a policy of depopulating the occupied areas, as is alleged by the Special Committee.

The same Defence (Emergency) Regulations 1945, which have been referred to earlier, in Regulation 112 "authorizes deportations on grounds of certain activities against security."\textsuperscript{88} Even if these regulations were part of the pre-existing law of the occupied territories, however, it appears that they were overruled by Article 49 of Geneva Convention IV, 1949, which forbids deportations of protected persons from occupied territory to territory outside. Nevertheless, it should be noted that the purpose of Article 49 was to guard against deportations to death and slave labor camps which the Nazis

\textsuperscript{82} \textit{Israel Ministry for Foreign Affairs, Facts about Israel} 1971, at 170.
\textsuperscript{84} Report of the Special Committee II, at 42.
\textsuperscript{85} \textit{Id.} at 43.
\textsuperscript{86} Report of the Special Committee I, at 110-11.
\textsuperscript{87} J. Stone, \textit{No Peace—No War in the Middle East} 16 (1969).
\textsuperscript{88} \textit{Id.} at 17.
practiced in World War II. In the present case, the deportations were to a country of friends and relatives, as an alternative to detention. The Israeli deportations certainly did not offend against the purport of Article 49.

The reports also complain of some internal transfers of population within the occupied areas. Whatever is the truth of this, it should be noted that Article 49 authorizes such actions "if the security of the population or imperative military reasons so demand." If they are voluntary, of course, they do not come within the terms of this article.

Regarding property abandoned by Arabs in the occupied areas, the Special Working Group could do nothing other than admit that Israel had taken steps to protect it, citing certain legislation enacted for this purpose.

In dealing with the main heads of complaint above, it has been assumed that Geneva Convention IV, 1949, applies to the occupied areas. Actually, Israel has not conceded that this convention applies to those parts of the occupied territories which were formerly administered by the mandatory government of Britain. The reason for this is that Article 2 of the convention states: "The Convention shall . . . apply to all cases of partial or total occupation of the territory of a High Contracting Party . . ." Egypt and Jordan were both parties to the convention, as was Israel, but Israel denies that the West Bank belonged to Jordan or the Gaza Strip to Egypt at the time of the occupation.

The International Committee of the Red Cross urged on Israel that the convention was applicable to the territories. To this, the Israeli government declared "that it wished 'to leave open for the time being' the question of the application of the fourth Geneva Convention, preferring to act on an ad hoc basis by granting practi-
cal facilities to the ICRC delegates. Thus, in practice, Israel has applied the convention.

Israel's stand on the interpretation of the second paragraph of Article 2 of the convention is, therefore, not a denial that the humanitarian safeguards of the convention are applicable to her occupation, but an unwillingness to give any color of legitimacy to Jordanian or Egyptian title to those territories. However, in regard to the Golan Heights and Sinai, although some doubts have been expressed as to the legal status of those territories, there can be little doubt, from any viewpoint, that Geneva Convention IV is applicable to them. However, since these territories are largely uninhabited, there is little scope for application of the convention.

Before leaving the subject of the complaints made in the reports, some attention should be devoted to some highly debatable claims made by the Special Committee as to international law on the right of the local inhabitants to self-determination and rights accruing from conquest in war.

The Right of Self-Determination in Occupied Territory

The law of war, which unmistakably governs the relationship between Israel and the occupied areas, makes no reference to any right of self-determination in occupied territory. The rights it deals with in regard to title to territory are those of states—the dispossessed legitimate owner and the de facto ruler, the occupant. The legitimate sovereign of the territory may be far from representative of the public will, as is demonstrated in many Arab states.

The dissolution of the colonial empires after World War II produced a spate of statements on the right of self-determination that has continued to the present time. Yet many of the newly emerged states and Communist powers who acclaim such resolutions in the United Nations are totally unwilling to concede such a right within their own borders. The truth is that the purported right of self-determination is an exceedingly vague and undefined concept.

The Special Committee refers to self-determination as a human right, but it is not listed in the Universal Declaration of Human Rights, 1948. Some legal opinion doubts that such a right exists

---

95 Y. BLUM, SECURE BOUNDARIES AND MIDDLE EAST PEACE 86 n.175a (1971)
96 Report of the Special Committee II, at 28(f), 57.
96a Id. at 28(f).
97 See note 45, supra.
in law at all. The Charter of the United Nations calls it a "principle" (Article 1(2)), which would make it more of an aspiration than a right. In the International Covenant on Civil and Political Rights, 1966, which is still not in force because of insufficient ratifications, it is referred to as a right (Article 1(1)); in the United Nations Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, 1970, it is referred to mostly as a principle, but also as a right.

As a principle, it may constitute the foundation for creating a right, but not necessarily constitute as such an actual right. In any case, for a right to have legal validity, it must be translatable into the circumstances in which it is applicable. A right that is so vague that it cannot be applied with any degree of definition can hardly be termed a right. 

It cannot be said that the circumstances in which a right of self-determination may accrue are at all clear, except perhaps in ousting imposed foreign rule over a homogeneous people in a defined territory that is not the subject of claims by other peoples. First, it will be noted that self-determination is a right that belongs to "peoples," as the instruments cited above have stated. What, then, is a "people?" Does a population of diverse ethnic origin constitute a people? Is a collection of different tribes in a territory arbitrarily carved out by a colonial power a people, merely because they are, or were, all ruled by the same colonial power? In other words, are the inhabitants of a state such as Nigeria a people with a right of self-determination, or is the right confined to a more homogeneous grouping such as the Ibos of Biafra in that state? If the latter, there would be few states in the world, new or old, that would meet the standard of such a definition. Further, how numerous must a "people" be before it can claim self-determination? Can a majority population claim such a right against the wishes of a minority? Does the size of the majority make a difference?

Then there is the question of "territory." How large must a territory be before the people in it can claim a right of self-determination? Can a city, or part of a city, have such a right? How long must

---

100a *Cf.*, Henri Meyrowitz, *Le Principe de L'Égalité des Belligérants devant le Droit de la Guerre* 243-244 (1970), "une 'règle' ou un 'principe' qui ne sont pas praticable ne peuvent prétendre à la qualité de règle de droit."
a people inhabit a territory to qualify for self-determination (not only Jews, but many Arabs are immigrants to Palestine?) Can a claim to self-determination be allowed if it would destroy the claim of another people to self-determination? How must competing claims be decided? Can people divorced from a territory have a claim to self-determination within it?

Finally, what does the very word "self-determination" imply? Is it merely freedom from unwelcome foreign rule, or does it go deeper and pertain to a right to a democratic form of government? Can there be self-determination through the agency of a dictatorship? In other words, how must the will to self-determination be expressed and continue to be expressed?

In the light of the foregoing, it will be seen that not only is the right to self-determination exceedingly ill-defined, but its application in the occupied territories to the uneasy amalgam of Moslems and Christians spread over the Middle East, that the Special Committee describes as "the Palestinian people," is by no means as clear-cut as the committee assumes.

THE RIGHT OF CONQUEST IN WAR

The question of self-determination in the occupied territories is also complicated by the issue of the right of conquest in war. On this, the committee takes its stand on the statement in the preamble to United Nations Security Council Resolution 242 (1967), which is the resolution setting out the Security Council's guidelines for settling the Arab-Israel dispute. The preamble "emphasiz[es] the inadmissibility of the acquisition of territory by war." Apparently, the committee takes this as a blanket denial of acquisition of territory in any war. Such an interpretation does not agree with the terms of the resolution itself, which, in stating the two principles on which peace should be based: (1) asks for Israeli withdrawal "from territories occupied," not the territories occupied and; (2) recognizes the right of Israel, along with the other states in the area, to "secure and recognized boundaries."

As stated earlier in this paper, this indicates that under the terms of the resolution territory may be acquired in war.

The law of war has always provided for the right of conquest in war. The concept of the illegality of wars of aggression that

---

101 "It has been estimated that by 1939 one-third of the Arab populace were newcomers." A. ECKARDT & R. ECKARDT, ENCOUNTER WITH ISRAEL 174 (1970).
102 Report of the Special Committee II, at 55.
has developed in the past half-century does not, however, permit acquisition of territory conquered by means of aggression. On the other hand, it would be completely illogical to protect an aggressor from forfeiture of territory that he has lost in perpetrating a war of aggression. That must be one of the sanctions to deter an aggressor from his course. Otherwise, he would be assured against risk.

The practice of states conforms to this view. Soviet Russia, in particular, dispossessed Germany and Japan of vast territories after World War II and, indeed, swallowed other great territories such as Latvia, Lithuania, and Estonia with even less excuse.

Israel in 1967 was the subject of "the threat or use of force against [its] territorial integrity or political independence," in the words of Article 2 (4) of the United Nations Charter. Any rational interpretation of those events can only lead to the conclusion that Israel was the victim of an armed aggression, to which, according to its critics, it should willingly have offered its throat. The fact that Israel outmaneuvered its assailants is now history, and all the vituperation of Soviet Russia and the Arabs cannot alter that fact. Certainly under international law, Israel is entitled to have recourse in these circumstances to the law of conquest to protect itself for the future.105

PERSONAL OBSERVATIONS

It is evident from the foregoing analysis that the efforts of the two investigatory bodies to impugn Israel's administration of the occupied territories lack validity and are politically motivated. The author's personal, first-hand account of the circumstances surrounding Israel's administration of the occupied territories will serve at this point to round out the picture.

The author and his wife were two of more than half-a-million people who visited Israel and the occupied territories during 1971.106 More than 100,000 of these visitors were Arabs, who came from as far away as Kuwait to visit relatives and friends.107 In a real sense, Israel and the occupied areas are under the scrutiny of the world; the society is an open one that does not fear for unfriendly eyes and ears or what anyone might discover regarding human rights.

The purpose of the author's visit was to participate at Tel Aviv University in the Symposium on Human Rights, which was organized

106 The Jerusalem Post, Oct. 6, 1971, at 2, col. 4 (Weekly Overseas Ed.).
in conjunction with the first issue of the *Israel Yearbook on Human Rights*. The meeting was held in the first days of July of 1971 and included two days of field trips in the occupied areas. Discussion was centered on "Human Rights in Time of War" and "Group (Minority) Rights." The participants were experts in human rights from a variety of countries.

The Chief Justice of the Israel Supreme Court and the Minister of Justice of Israel opened the sessions, and papers were delivered by the Attorney General, the general responsible for military administration of the occupied territories, the Military Advocate General, and his senior staff officer. It was evident that there was keen interest in the issue of human rights in the territories on the part of those who have the duty of enforcing them there.

Our field trips took us to the bridge spanning the Jordan at Jericho, where we observed the "open bridges" policy of Israel in operation, that is, Arab men, women, and children coming over from Jordan to visit in Israel; to an Arab refugee camp in Bethlehem, which constituted a sort of village of fairly substantial accommodation; to the courts and Arab judges of the West Bank at Ramallah; to a former Jordanian Minister of Refugees at Bethlehem, and to Hebron, where we met the Arab mayor and the notables of the area.

In open session before the news media and in private conversation, we addressed any questions we wished to these personalities and to others whom we met. In no case did they reflect adversely on the conduct of the occupation, although they were given every opportunity to do so. They said frankly that they did not like being under occupation, but that if they had to live under occupation then they preferred this one. The headman of the refugee camp told the author that the people of the camp worked not only in Jerusalem, but as far afield as Tel Aviv. I learned that many of these workers preferred to live in the camp because they paid no rent and received food rations from the United Nations Relief and Works Administration. Some of the dwellings were very well furnished. The Mayor of Hebron assured us that the economic situation of his area was good.

My wife and I spent a month in Israel and visited the Old City in Jerusalem on a number of occasions. We saw streams of Christian pilgrims on the Via Dolorosa, Moslems in the Mosque of Omar and El Aksa, and Jews at the Western (Wailing) Wall. Clearly, freedom of worship was respected and guaranteed to every religion, and the various shrines were maintained and protected.

During the last two weeks of our stay, we lived in an Arab hotel in East Jerusalem. We saw no trace of coercion among the Arab population, no tension, no Israeli troops in the Arab quarter, and only occasional Arab police. We walked about freely late at night in complete security. In a street at the back of the hotel was an employment office, set up by Israel for the Arab population. People went about their business in a normal way and lived normal lives.

On one trip, we traveled along the West Bank through the occupied areas by regular Israeli bus service, picking up and dropping off Arab passengers. The atmosphere was friendly along the way and we saw very few members of the Israeli military.

At our Arab hotel in Jerusalem, we found that we were neighbors of the International Committee of the Red Cross. Early on our first morning, we were awakened by a crowd that gathered outside. The people were there to visit Arabs under detention and were taken in Red Cross buses. We met and spoke to some of the ICRC delegates, including the chief delegate, Mr. Guy Deluz, of Switzerland. The author asked him for his general opinion of the Israeli occupation, and his considered reply was that it was "rather decent."

Mr. Deluz had three complaints. First, he wanted Israel to recognize formally that she was bound by Geneva Convention IV in relation to the occupation, although he stated that "pragmatically" Israel observed the convention. Secondly, he said he was not allowed to see prisoners for about a month after their detention, but that otherwise he was allowed full access to all prisoners and to interview them in private. The author later had an opportunity to mention this matter to the Attorney General, Mr. Meir Shamgar; he replied that the period was more nearly two weeks, and that the reasons for this were security and the need to allow time for the prisoners to settle down in detention.

It should be noted that Article 5 of Geneva Convention IV permits this procedure by an occupant in the case of security offenses. "[S]uch person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention." Articles 30 and 142 also limit access by aid societies in case of security considerations, "or to meet any other reasonable need" (Article 142). Thirdly, the chief delegate said there was some overcrowding in the prisons, but that he understood Israel's difficulties in that regard and that new accommodations were being built. The author observed on a visit to Ramleh Prison that one of the sleeping areas was rather crowded, but it certainly was not excessive.

With the foregoing personal account may be contrasted the
distortions and not so subtle hints that the Special Committee has used to convey the impression that the ICRC agrees with the committee's charges regarding the occupation.\textsuperscript{109} (Even so, in its second report the committee displays obvious irritation with the ICRC for refusing to commit itself to the committee's position.)\textsuperscript{110}

A further example of the Special Committee's tendentiousness is its observation in its second report that "general prison conditions . . . are stated to be bad."\textsuperscript{111} On July 25, 1971, the author visited both the men's prison at Ramleh and the women's prison nearby. The women's prison was exceptionally clean, bright, and spacious. The men's prison was a much older building that the British had built; yet, it was well maintained and the prisoners were accorded every reasonable facility, including the chance to learn various trades, such as shoemaking and printing. There were recreational facilities, cheerful messrooms, and a good hospital.

The author spoke freely with a number of prisoners, male and female, detained for terrorist activities; and all of them, with one exception, said that they were receiving humane treatment and decent food. The one exception was the complaint of two young women prisoners that they had received rough treatment on a particular occasion. On this matter, the prison authorities stated that these prisoners had engaged in riot and arson on that particular occasion, and guards had to be brought in to restrain them. The two women were serving sentences for bombing a supermarket, and the bombing had resulted in deaths. Certainly, the demeanor of the prisoners we saw showed no evidence of their being coerced or cowed.

**CONCLUSION AND SUMMARY**

It is my considered view, from everything I have seen and learned, that the Israeli occupation is humane and benevolent, and that it compares exceedingly well with any occupation in history. A characteristic example of Israel's practise of humanity is her refusal to employ the death penalty, although Article 68 of Geneva Convention IV authorizes its use for espionage, serious acts of sabotage against military installations, and intentional offenses causing death, provided the law of the territory before the occupation allowed for the death penalty in such cases. Pre-existing law in the occupied territories permitted imposition of the death penalty. Under Israeli rule even a terrorist who commits wholesale murder, as has

\textsuperscript{109} Report of the Special Committee I, at 21-22, 55; Report of the Special Committee II, at 55.

\textsuperscript{110} Report of the Special Committee II, at 20-22.

\textsuperscript{111} Id. at 55.
happened, is assured that imprisonment is the most he will suffer on conviction. With this may be contrasted the system of justice in the Arab states. Jordan employs the death penalty against the same fedayeen that Israel spares; Syria and Egypt hang espionage agents in peacetime, Syria doing so in public on occasion\textsuperscript{112}; Iraq hangs Jews for being Jews, as part of a public exhibition.\textsuperscript{113}

As for the standards in Israeli military courts, "The rules of procedure and evidence in the military courts are the same as those in the civil courts of Israel. Furthermore, an accused is entitled to legal representation. If found guilty, he may apply to the regional military governor, at any time after sentence is passed, for mitigation of his sentence."\textsuperscript{114}

The benevolence of the Israeli administration is further attested by the vast improvement in the general condition of the population from what it was before the occupation. Economically and socially, this population has made great strides, some of which are described as follows:

[A] great deal has been done to better and modernise the agriculture of the West Bank . . . . Total farm production went from 135 million Israeli pounds to 180 millions pounds in one year, and exports multiplied tenfold . . . . 3.5 million trees were planted in the West Bank—as many as in all the past fifty years. In 1968, the tobacco crop there was tripled. In that year, too, industrial productivity went up 54%, thanks, largely, to loans and other aid from Israel. The budget for education has gone up by 20 percent.\textsuperscript{115}

In addition, some 40,000 Arab workers cross into Israel every day and work alongside Jews for the same wages. "[O]ften . . . . they earn three or four times their previous pay—if, indeed, they had been lucky enough, then, to be employed at all. They have not been slow, either, to avail themselves of Israeli methods or of the institutions of labour unions."\textsuperscript{116}

The poorest and most backward area at the time of the occupation was the Gaza Strip. Regarding this:

The policy of this administration was defined as the restoration of normal conditions of life and security for all the people of the Strip, and to provide for their economic and social development. As far as possible, it was conducted through the existing local authorities, with the

---

\textsuperscript{112} B. Dan, The Spy from Israel 1(f) (1969).
\textsuperscript{114} Israel Ministry of Justice, The Law in Administered Areas 9 (n.d.).
\textsuperscript{115} Israel Policy Statements, supra note 37, at 6.
\textsuperscript{116} Id. See also A. Eckardt & R. Eckardt, Encounter with Israel 187 (1970); Lambert, West Bank Gains Under Israel Rule, Los Angeles Times, Nov. 21, 1971, at 12, col. 1 (Sec. A).
Israeli element remaining small in numbers and unobtrusive. Large sums of money were budgeted by the Israeli Treasury for the development of agriculture, the promotion of industry, the provision of municipal and health services and the improvement of transport facilities. As a result the curse of unemployment, which affected nearly one half of the population in 1966, has now been almost eliminated. The average daily wage inside the Strip, which was the equivalent of one Israel pound in 1966, has now risen to 6.5 Israel pounds.\textsuperscript{117}

Tributes by impartial foreign observers as to the humaneness and benevolence of the Israeli occupation have come from all parts of the world, but it was in fact a hostile source that produced the following: "[T]he Israeli military occupation is one of the most liberal and enlightened military occupations in history."\textsuperscript{118}
